

Monday, July 29, 2013

RECEIVED

AUG 01 2013

United States Environmental Protection Agency  
Attention: Jonathan Moody  
Water Enforcement and Compliance Assurance Branch  
Water Division, WC-15J  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

WATER ENFORCEMENT & COMPLIANCE  
ASSURANCE BRANCH, EPA, REGION 5

RE: Information Request Under Section 308(a) of the Clean Water Act,  
Docket No. V-W-13-308-17 ("Request")

Dear Mr. Moody:

Eagle Mine, LLC received the above-referenced Request on July 22, 2013. In accordance with item 2 in the listed specific requests for information, Eagle Mine is notifying you that it intends to comply with the Request. In addition, please note the following in relation to the Request:

1. The Request was addressed to Jonathan Cherry, General Manager, Kennecott Eagle Minerals Company, 504 Spruce Street, Ishpeming, Michigan 49849. The company name, contact, and administrative office location has changed. Please direct all future correspondence to:

Kristen Mariuzza  
Environmental & Permitting Manager  
Eagle Mine, LLC  
4547 County Road 601  
Champion MI 49814

2. In accordance with the attached exchange of electronic correspondence between our counsel, Warner Norcross & Judd LLP, and U.S. EPA's Office of Regional Counsel, Eagle Mine will provide response to items 3 and 4 on or before August 21, 2013. Eagle Mine will provide responses to item nos. 5-8 of the Request on or before September 20, 2013. In addition, Eagle Mine will commence the weekly sampling requested in item no. 10 on or before August 15, 2013.
3. Item nos. 9-10 require sampling of all discharges from the HTDF. Current operations involve the use of two adjacent pumps which convey water from the same intake location within the HTDF to the same outfall location (Wetland EE). The water from both pumps is combined at the outfall location. EPA NPDES Form 2C instructions state, "If you have two or more substantially identical outfalls, you may request permission from your permitting authority to sample and analyze only one outfall and submit the results of the analysis for the other substantially identical outfalls." Therefore, unless

EPA indicates the contrary, Eagle Mine plans to collect one sample at the discharge location because the outfalls are "substantially identical."

4. In the attached electronic correspondence between counsel, U.S. EPA states its understanding that Eagle will stop discharging from the HTDF outfall. Please note that this discharge is a discharge of meteoric water that has collected in the HTDF and contains no process wastewater. There are currently no process operations at the mill site.

Due to construction of the permit required bentonite cutoff wall, the historical flow of storm water from the pit has been significantly reduced and will be eliminated once construction is complete. Pumping of storm water is necessary to maintain the hydrologic balance and historic water levels inside the HTDF until operations commence. At that time, process water will be introduced to the HTDF and a water treatment plant will be in place to treat flows from the HTDF. MDEQ has been kept fully informed of the current discharge, which is in full compliance with Eagle's NPDES permits for the site.

In the meantime, please call if you have any questions about this correspondence or Eagle Mine's response to the Request.

Very truly yours,



Kristen Mariuzza

cc: Nicole Cantello, United States Environmental Protection Agency, Office of Regional Counsel, C-14J, 77 West Jackson Blvd., Chicago, Illinois 60604-3511 (312) 886-2870

Steve Casey, Michigan Department of Environmental Quality, 420 5th Street, Gwinn, Michigan 49841

## Kulju, Ann (RT-EAGLE)

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**From:** Cantello, Nicole <cantello.nicole@epa.gov>  
**Sent:** Thursday, July 25, 2013 2:43 PM  
**To:** Donohue, Dennis  
**Cc:** Mendoza, Stephen; Maraldo, Dean; Vantil, Barbara  
**Subject:** RE: EPA Section 308 Information Request Docket No. V-W-13-308-17

Dear Mr. Donohue:

Thank you for your message regarding the information request.

- (1) Eagle Mine asks for an extension to respond to the information request rec'd on July 22, 2013. We interpreted this inquiry to be applicable to the request for documents in Requests 3-8. Eagle Mine may respond to Requests 5-8 by September 20, 2013. Requests 3 and 4 require Eagle Mine to submit documents readily available to the operators of the Mine, because they are used on a day to day basis and dictate the regulatory requirements applicable to Eagle Mine's discharge under the Clean Water Act. Therefore, you must submit the response to requests 3 and 4 in accordance with the deadline contained in the Request. I note that Eagle Mine provided no justification for an extension of time, and a 30 day extension is not customarily granted without good cause shown.
- (2) EPA is available to confer with Eagle Mine in Chicago and suggests 10:00am on August 14<sup>th</sup>. Please submit a list of attendees for Eagle Mine and a proposed agenda, as well as any materials you would like EPA to consider at the meeting as soon as possible.
- (3) You object to the cost of the sampling included in Request #10. Eagle Mine may start the sampling required by Request #10 on August 15, 2013. However, Eagle Mine must monitor the discharge as required by Request #10 and report as required under the Request, including the dates, total volume and peak rate of the discharge. Eagle Mine must also sample as required by Request #9. EPA contends that obtaining a sample of the discharge is crucial to understanding the nature and extent of pollutants entering a water of the US, and is fully justified by Section 308. In addition, Eagle Mine will have to elaborate on its statement that Request 10 is in conflict with the NPDES Permit applicable to this discharge. We note that MDEQ is fully aware of EPA's Request and has informed us that Eagle Mine indicated that it intended to cease its discharge in the near future. Please let us know if this is the case.

We look forward to working with you to complete compliance with the Information Request.

Best,

Nicole Cantello  
Attorney/Advisor  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60647  
312/886-2870  
cantello.nicole@epa.gov

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**From:** Donohue, Dennis [mailto:DDonohue@wnj.com]  
**Sent:** Wednesday, July 24, 2013 2:45 PM  
**To:** Cantello, Nicole  
**Subject:** EPA Section 308 Information Request Docket No. V-W-13-308-17

Dear Ms. Cantello:

Thank you for taking my call earlier today. Per your request, this email documents the three items I raised concerning the above-referenced CWA Section 308 Request during our call.

First, my client asks that the deadline for responding to the Request be extended 30 days to September 20<sup>th</sup>, 2013. (Eagle Mine (Kennecott Eagle Minerals Company is now doing business as Eagle Mine) received the Request on July 22 , with a 30 day response deadline specified in the Request (August 21). However, as we discussed, we are not asking for an extension of the deadline specified in request no. 2, which asks Eagle Mine to notify EPA of whether it intends to comply with the Request within 7 days.

Second, my client would like to meet with you and appropriate EPA staff as soon as possible to discuss the Request. I understand the earliest you would be able to have such a meeting is August 12<sup>th</sup> or 13<sup>th</sup>, although you are not sure these dates would work with staff that would need to be present. Those two dates work for us. In addition, the week of August 26<sup>th</sup> is open for us.

Third, my client requests that EPA suspend request no. 10's directive that Eagle Mine begin weekly monitoring of the HDTF discharge upon receipt of the Request until (at a minimum) such time as we have the meeting referenced above. We think the information transmitted during the meeting may obviate the need for such weekly sampling. In addition, there does not appear to be any immediate or compelling need to begin the sampling, which is costly and presents some logistical considerations since this is not an active milling operation. Further, we think this request contradicts the terms and conditions of the NPDES permit for the HDTF, both by its plain terms and as interpreted and applied by MDEQ.

Your prompt response would be appreciated.

Thank You,



**Dennis J. Donohue** | Partner

**Warner Norcross & Judd LLP**

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